

United States Bankruptcy Court  
Western District of New York

In re:  
The Diocese of Rochester  
Debtor

Case No. 19-20905-PRW  
Chapter 11

## CERTIFICATE OF NOTICE

District/off: 0209-2  
Date Rcvd: Oct 23, 2023

User: admin  
Form ID: pdforder

Page 1 of 10  
Total Noticed: 3

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Oct 25, 2023:

Recip ID	Recipient Name and Address
db	+ The Diocese of Rochester, 1150 Buffalo Road, Rochester, NY 14624-1890
pr	+ Lisa M. Passero, The Diocese of Rochester, 1150 Buffalo Road, Rochester, NY 14624-1890

TOTAL: 2

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID	Notice Type: Email Address	Date/Time	Recipient Name and Address
smg	+ Email/Text: ustpreion02.ro.ecf@usdoj.gov	Oct 23 2023 18:23:00	Office of the U.S. Trustee, 100 State Street, Room 6090, Rochester, NY 14614-1315

TOTAL: 1

## BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

## NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Oct 25, 2023

Signature: /s/Gustava Winters

## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on October 23, 2023 at the address(es) listed below:

Name	Email Address
Adam Horowitz	on behalf of Creditor Certain Sexual Abuse Claimants adam@adamhorowitzlaw.com
Adam Horowitz	on behalf of Notice of Appearance Creditor Sexual Abuse Survivor/Creditor adam@adamhorowitzlaw.com
Adam Horowitz	on behalf of Creditor 31 Claimants adam@adamhorowitzlaw.com

Adam Horowitz	on behalf of Attorney Horowitz Law Claimants adam@adamhorowitzlaw.com
Amy Keller	on behalf of Defendant AB 100 Doe et al akeller@lglaw.com, sfischer@lglaw.com
Amy Keller	on behalf of Creditor Certain Sexual Abuse Claimants akeller@lglaw.com sfischer@lglaw.com
Andrew Mina	on behalf of Interested Party London Market Insurers amina@duanemorris.com
Annette Rolain	on behalf of Interested Party First State Insurance Company arolain@rugerilaw.com
Betty Luu	on behalf of Interested Party London Market Insurers bluu@duanemorris.com
Brianna M Espeland	on behalf of Creditor Kenneth Cubiotti brianna@jvwlaw.net
Brianna M Espeland	on behalf of Notice of Appearance Creditor Brian S. Delafranier brianna@jvwlaw.net
Brittany Mitchell Michael	on behalf of Notice of Appearance Creditor Official Committee of Unsecured Creditors bmichael@pszjlaw.com
Camille W. Hill	on behalf of Debtor The Diocese of Rochester chill@bsk.com ayerst@bsk.com;kdoner@bsk.com;CourtMail@bsk.com
Carol Dupre	caroldopray61@yahoo.com
Catalina Sugayan	on behalf of Defendant CX Reinsurance Company Limited catalina.sugayan@clydeco.us Nancy.Lima@clydeco.us
Catalina Sugayan	on behalf of Defendant Certain Underwriters at Lloyd's London catalina.sugayan@clydeco.us, Nancy.Lima@clydeco.us
Catalina Sugayan	on behalf of Interested Party London Market Insurers catalina.sugayan@clydeco.us Nancy.Lima@clydeco.us
Catalina Sugayan	on behalf of Defendant HDI Global Specialty SE catalina.sugayan@clydeco.us Nancy.Lima@clydeco.us
Catalina Sugayan	on behalf of Defendant Markel International Insurance Company Limited catalina.sugayan@clydeco.us Nancy.Lima@clydeco.us
Catalina Sugayan	on behalf of Interested Party HDI Global Specialty SE catalina.sugayan@clydeco.us Nancy.Lima@clydeco.us
Catalina Sugayan	on behalf of Interested Party Certain Underwriters at Lloyd's London catalina.sugayan@clydeco.us, Nancy.Lima@clydeco.us
Catalina Sugayan	on behalf of Defendant Tenecom Limited catalina.sugayan@clydeco.us Nancy.Lima@clydeco.us
Catalina Sugayan	on behalf of Defendant Certain London Market Companies catalina.sugayan@clydeco.us Nancy.Lima@clydeco.us
Catalina Sugayan	on behalf of Defendant The Dominion Insurance Company Limited catalina.sugayan@clydeco.us Nancy.Lima@clydeco.us
Catherine Beideman Heitzenrater	on behalf of Creditor The Chubb Companies cheitzenrater@duanemorris.com
Charles Edwin Jones	on behalf of Defendant Interstate Fire & Casualty Company charles.jones@lawmoss.com Brenda.murphy@lawmoss.com
Charles Edwin Jones	on behalf of Notice of Appearance Creditor National Surety Corporation charles.jones@lawmoss.com Brenda.murphy@lawmoss.com
Charles Edwin Jones	on behalf of Notice of Appearance Creditor Interstate Fire and Casualty Company charles.jones@lawmoss.com Brenda.murphy@lawmoss.com
Charles Edwin Jones	on behalf of Interested Party National Surety Corporation charles.jones@lawmoss.com Brenda.murphy@lawmoss.com
Charles Edwin Jones	on behalf of Interested Party Interstate Fire and Casualty Company charles.jones@lawmoss.com Brenda.murphy@lawmoss.com

Charles Edwin Jones	on behalf of Defendant National Surety Corporation charles.jones@lawmoss.com Brenda.murphy@lawmoss.com
Charles J. Sullivan	on behalf of Plaintiff The Diocese of Rochester csullivan@bsk.com kdoner@bsk.com;jhunold@bsk.com;CourtMail@bsk.com
Charles J. Sullivan	on behalf of Debtor The Diocese of Rochester csullivan@bsk.com kdoner@bsk.com;jhunold@bsk.com;CourtMail@bsk.com
Charles J. Sullivan	on behalf of Creditor Claimant MM csullivan@bsk.com kdoner@bsk.com;jhunold@bsk.com;CourtMail@bsk.com
Craig Goldblatt	on behalf of Notice of Appearance Creditor Continental Insurance Company craig.goldblatt@wilmerhale.com
Craig Goldblatt	on behalf of Interested Party Continental Insurance Company craig.goldblatt@wilmerhale.com
Danielle Spinelli	on behalf of Notice of Appearance Creditor Continental Insurance Company danielle.spinelli@wilmerhale.com
David C. Christian, II	on behalf of Interested Party Continental Insurance Company dchristian@dca.law
David C. Christian, II	on behalf of Notice of Appearance Creditor Continental Insurance Company dchristian@dca.law
Deola T. Ali	on behalf of Creditor Certain Sexual Abuse Claimants dali@awtxlaw.com
Devin L. Palmer	on behalf of Notice of Appearance Creditor Catholic Charities of the Diocese of Rochester dpalmer@boylanocode.com dpalmer@boylanocode.com;sciaccia@boylanocode.com;rmarks@boylanocode.com
Devin L. Palmer	on behalf of Notice of Appearance Creditor Camp Stella Maris of Livonia dpalmer@boylanocode.com dpalmer@boylanocode.com;sciaccia@boylanocode.com;rmarks@boylanocode.com
Devin L. Palmer	on behalf of Notice of Appearance Creditor Catholic Youth Organization dpalmer@boylanocode.com dpalmer@boylanocode.com;sciaccia@boylanocode.com;rmarks@boylanocode.com
Devin L. Palmer	on behalf of Notice of Appearance Creditor St. Joseph's Villa dpalmer@boylanocode.com dpalmer@boylanocode.com;sciaccia@boylanocode.com;rmarks@boylanocode.com
Diane Paolicelli	on behalf of Creditor ORLANDO RIVERA dpaolicelli@p2law.com
Diane Paolicelli	on behalf of Creditor 065 -Claimant (Creditor) dpaolicelli@p2law.com
Diane Paolicelli	on behalf of Creditor 528 - Claimant (Creditor) dpaolicelli@p2law.com
Diane Paolicelli	on behalf of Creditor PC-33 DOE dpaolicelli@p2law.com
Diane Paolicelli	on behalf of Creditor LCVAWCR DOE dpaolicelli@p2law.com
Diane Paolicelli	on behalf of Creditor 198 - Claimant (Creditor) dpaolicelli@p2law.com
Dirk C. Haarhoff	on behalf of Defendant Colonial Penn Insurance Company dchaarhoff@kslnlaw.com
Dirk C. Haarhoff	on behalf of Notice of Appearance Creditor Colonial Penn Insurance Company dchaarhoff@kslnlaw.com
Dirk C. Haarhoff	on behalf of Notice of Appearance Creditor Swiss Re America Corporation as Administrator dchaarhoff@kslnlaw.com
Elin Lindstrom	on behalf of Notice of Appearance Creditor Jeff Anderson & Associates elin@andersonadvocates.com therese@andersonadvocates.com
Eric John Ward	on behalf of Notice of Appearance Creditor Catholic Youth Organization eward@wardgreenberg.com
Eric John Ward	on behalf of Notice of Appearance Creditor Camp Stella Maris of Livonia eward@wardgreenberg.com

Eric John Ward	on behalf of Notice of Appearance Creditor St. Joseph's Villa eward@wardgreenberg.com
Eric John Ward	on behalf of Notice of Appearance Creditor Catholic Charities of the Diocese of Rochester eward@wardgreenberg.com
Garry M. Graber	on behalf of Notice of Appearance Creditor Manufacturers and Traders Trust Company ggraber@hodgsonruss.com mheftka@hodgsonruss.com;cnapiers@hodgsonruss.com
Gerard Sweeney	on behalf of Creditor CC 403 gkosmakos@srblawfirm.com
Gerard Sweeney	on behalf of Creditor Claimants Certain Sexual Abuse gkosmakos@srblawfirm.com
Grayson T. Walter	on behalf of Debtor The Diocese of Rochester gwalter@bsk.com kdoner@bsk.com;CourtMail@bsk.com
Grayson T. Walter	on behalf of Plaintiff The Diocese of Rochester gwalter@bsk.com kdoner@bsk.com;CourtMail@bsk.com
Harris Winsberg	on behalf of Defendant National Surety Corporation hwinsberg@phrd.com
Harris Winsberg	on behalf of Interested Party National Surety Corporation hwinsberg@phrd.com
Harris Winsberg	on behalf of Notice of Appearance Creditor Interstate Fire and Casualty Company hwinsberg@phrd.com
Harris Winsberg	on behalf of Defendant Interstate Fire & Casualty Company hwinsberg@phrd.com
Harris Winsberg	on behalf of Interested Party Interstate Fire and Casualty Company hwinsberg@phrd.com
Harris Winsberg	on behalf of Notice of Appearance Creditor National Surety Corporation hwinsberg@phrd.com
Ilan D Scharf	on behalf of Notice of Appearance Creditor Official Committee of Unsecured Creditors ischarf@pszjlaw.com lcanty@pszjlaw.com;nrobinson@pszjlaw.com;bdassa@pszjlaw.com
Ilan D Scharf	on behalf of Intervenor Official Committee of Unsecured Creditors ischarf@pszjlaw.com lcanty@pszjlaw.com;nrobinson@pszjlaw.com;bdassa@pszjlaw.com
Ilan D Scharf	on behalf of Attorney Pachulski Stang Ziehl & Jones LLP ischarf@pszjlaw.com lcanty@pszjlaw.com;nrobinson@pszjlaw.com;bdassa@pszjlaw.com
Ilan D Scharf	on behalf of Creditor Committee Official Committee of Unsecured Creditors ischarf@pszjlaw.com lcanty@pszjlaw.com;nrobinson@pszjlaw.com;bdassa@pszjlaw.com
Ingrid S. Palermo	on behalf of Debtor The Diocese of Rochester ipalermo@bsk.com kdoner@bsk.com;aparris@bsk.com
Isley Markman Gostin	on behalf of Notice of Appearance Creditor Continental Insurance Company isley.gostin@wilmerhale.com
Isley Markman Gostin	on behalf of Interested Party Continental Insurance Company isley.gostin@wilmerhale.com
James Carter, Jr	on behalf of Special Counsel Blank Rome LLP jscarter@blankrome.com
James I. Stang	on behalf of Creditor Committee Official Committee of Unsecured Creditors jstang@pszjlaw.com
James K.T. Hunter	on behalf of Creditor Committee Official Committee of Unsecured Creditors jhunter@pszjlaw.com
James Pio Ruggeri	on behalf of Interested Party First State Insurance Company jruggeri@ruggirilaw.com
James R Marsh	on behalf of Creditor M.G. jamesmarsh@marsh.law
James R Marsh	on behalf of Creditor R.O. jamesmarsh@marsh.law

James R Marsh	on behalf of Creditor Claimant MM jamesmarsh@marsh.law
James R Marsh	on behalf of Creditor Claimant Creditors Marsh Law Firm jamesmarsh@marsh.law
James R Marsh	on behalf of Creditor 31 Claimants jamesmarsh@marsh.law
James R Marsh	on behalf of Creditor S. B. jamesmarsh@marsh.law
James R Marsh	on behalf of Creditor Certain Sexual Abuse Claimants jamesmarsh@marsh.law
James R Marsh	on behalf of Creditor MLF-PCVA Creditors jamesmarsh@marsh.law
James R Marsh	on behalf of Creditor S.B. jamesmarsh@marsh.law
James R Murray	on behalf of Special Counsel Blank Rome LLP jmurray@blankrome.com, edocketing@blankrome.com
James R Murray	on behalf of Special Counsel James R Murray jmurray@blankrome.com edocketing@blankrome.com
Jarrold W. Smith	on behalf of Notice of Appearance Creditor Donna Oppedisano jarrodsmithlaw@gmail.com
Jarrold W. Smith	on behalf of Creditor Donna Oppedisano jarrodsmithlaw@gmail.com
Jarrold W. Smith	on behalf of Notice of Appearance Creditor Kathleen Israel jarrodsmithlaw@gmail.com
Jarrold W. Smith	on behalf of Creditor Kathleen Israel jarrodsmithlaw@gmail.com
Jeff Kahane	on behalf of Interested Party London Market Insurers jkahane@duanemorris.com
Jeffrey Austin Dove	on behalf of Defendant The Continental Insurance Company jdove@barclaydamon.com avrooman@barclaydamon.com,jeffrey-dove-1212@ecf.pacerpro.com
Jeffrey Austin Dove	on behalf of Interested Party Continental Insurance Company jdove@barclaydamon.com avrooman@barclaydamon.com,jeffrey-dove-1212@ecf.pacerpro.com
Jeffrey Austin Dove	on behalf of Notice of Appearance Creditor Continental Insurance Company jdove@barclaydamon.com avrooman@barclaydamon.com,jeffrey-dove-1212@ecf.pacerpro.com
Jeffrey D. Eaton	on behalf of Debtor The Diocese of Rochester jeaton@bsk.com kdoner@bsk.com;tayers@bsk.com;CourtMail@bsk.com
Jesse Bair	on behalf of Special Counsel Burns Bowen Bair LLP jbair@burnsbair.com kdempski@burnsbair.com
Jesse Bair	on behalf of Creditor Committee Official Committee of Unsecured Creditors jbair@bbblawllp.com kdempski@burnsbair.com
Jesse Bair	on behalf of Notice of Appearance Creditor Official Committee of Unsecured Creditors jbair@burnsbair.com kdempski@burnsbair.com
John Bucheit	on behalf of Defendant National Surety Corporation jbucheit@phrd.com ssnead@phrd.com
John Bucheit	on behalf of Interested Party National Surety Corporation jbucheit@phrd.com ssnead@phrd.com
John Bucheit	on behalf of Interested Party Interstate Fire and Casualty Company jbucheit@phrd.com ssnead@phrd.com
John Bucheit	on behalf of Defendant Interstate Fire & Casualty Company jbucheit@phrd.com ssnead@phrd.com
John A. Mueller	on behalf of Notice of Appearance Creditor Monroe County jmueller@lippes.com jtenczar@lippes.com
Joshua D Weinberg	

	on behalf of Interested Party First State Insurance Company jweinberg@ruggirilaw.com
Judith Treger Shelton	on behalf of Notice of Appearance Creditor Colonial Penn Insurance Company jtshelton@kslnlaw.com
Judith Treger Shelton	on behalf of Defendant Colonial Penn Insurance Company jtshelton@kslnlaw.com
Judith Treger Shelton	on behalf of Notice of Appearance Creditor Swiss Re America Corporation as Administrator jtshelton@kslnlaw.com
Kaitlin M. Calov	on behalf of Notice of Appearance Creditor Colonial Penn Insurance Company kcalov@wwmlawyers.com jvail@walkerwilcox.com
Kaitlin M. Calov	on behalf of Notice of Appearance Creditor Swiss Re America Corporation as Administrator kcalov@wwmlawyers.com jvail@walkerwilcox.com
Kaitlin M. Calov	on behalf of Defendant Colonial Penn Insurance Company kcalov@wwmlawyers.com jvail@walkerwilcox.com
Katerina Marie Kramarchyk	on behalf of Notice of Appearance Creditor Catholic Charities of the Diocese of Rochester kkramarchyk@wardgreenberg.com
Katerina Marie Kramarchyk	on behalf of Notice of Appearance Creditor St. Joseph's Villa kkramarchyk@wardgreenberg.com
Katerina Marie Kramarchyk	on behalf of Notice of Appearance Creditor Camp Stella Maris of Livonia kkramarchyk@wardgreenberg.com
Katerina Marie Kramarchyk	on behalf of Notice of Appearance Creditor Catholic Youth Organization kkramarchyk@wardgreenberg.com
Kathleen Thomas	on behalf of Notice of Appearance Creditor Sexual Abuse Survivor/Creditor kat@tlclawllc.com
Kathleen Thomas	on behalf of Creditor Certain Sexual Abuse Claimants kat@tlclawllc.com
Kathleen Thomas	on behalf of Creditor J. O. kat@tlclawllc.com
Kathleen Dunivin Schmitt	USTPRegion02.RO.ECF@USDOJ.GOV
Kelly McNamee	on behalf of Interested Party Gannett Co. Inc. mcnameek@gtlaw.com
Lauren Lifland	on behalf of Notice of Appearance Creditor Continental Insurance Company lauren.lifland@wilmerhale.com
Leander Laurel James, IV	on behalf of Creditor Kenneth G. Cubiotti ljames@jvwlaw.net Lucia@jvwlaw.net
Leander Laurel James, IV	on behalf of Creditor GM127 DOE ljames@jvwlaw.net Lucia@jvwlaw.net
Leander Laurel James, IV	on behalf of Interested Party Kenneth Cubiotti ljames@jvwlaw.net Lucia@jvwlaw.net
Leander Laurel James, IV	on behalf of Creditor MG133 DOE ljames@jvwlaw.net Lucia@jvwlaw.net
Leander Laurel James, IV	on behalf of Creditor CW187 DOE ljames@jvwlaw.net Lucia@jvwlaw.net
Leander Laurel James, IV	on behalf of Creditor JP185 DOE ljames@jvwlaw.net Lucia@jvwlaw.net
Leander Laurel James, IV	on behalf of Creditor Kenneth Cubiotti ljames@jvwlaw.net Lucia@jvwlaw.net
Leander Laurel James, IV	on behalf of Notice of Appearance Creditor Kenneth G. Cubiotti ljames@jvwlaw.net Lucia@jvwlaw.net
Lee E. Woodard	on behalf of Special Counsel Harris Beach PLLC bkemail@harrisbeach.com efilings@harrisbeach.com;broy@harrisbeach.com;bmahoney@HarrisBeach.com;KMeans@HarrisBeach.com
Lucien A. Morin, II	on behalf of Notice of Appearance Creditor Amaryllis Figueroa lmorin@mccmlaw.com lmorinzmcm@aol.com;jcole@mccmlaw.com;kruegermr74613@notify.bestcase.com

M. Paul Gorfinkel	on behalf of Notice of Appearance Creditor Interstate Fire and Casualty Company paul.gorfinkel@rivkin.com
Mark D. Plevin	on behalf of Interested Party Continental Insurance Company mplevin@crowell.com
Mary Jo Korona	on behalf of Notice of Appearance Creditor Bishop Emeritus Matthew H. Clark mkorona@adamsleclair.law sarahi@leclairkorona.com
Matthew Roberts	on behalf of Defendant Interstate Fire & Casualty Company mroberts@phrd.com
Matthew Roberts	on behalf of Interested Party National Surety Corporation mroberts@phrd.com
Matthew Roberts	on behalf of Interested Party Interstate Fire and Casualty Company mroberts@phrd.com
Matthew Roberts	on behalf of Defendant National Surety Corporation mroberts@phrd.com
Matthew Griffin Merson	on behalf of Notice of Appearance Creditor Merson Law PLLC mmerson@mersonlaw.com
Matthew John Obiala, I	on behalf of Interested Party London Market Insurers matt.obiala@clydeco.us
Matthew Michael Weiss	on behalf of Interested Party National Surety Corporation mweiss@phrd.com
Matthew Michael Weiss	on behalf of Interested Party Interstate Fire and Casualty Company mweiss@phrd.com
Melanie Wolk	on behalf of Notice of Appearance Creditor Sexual Abuse Survivor/Creditor mwolk@treveccristo.com rkernan@treveccristo.com;zimmermann@treveccristo.com
Michael Finnegan	on behalf of Defendant AB 100 Doe et al mike@andersonadvocates.com, therese@andersonadvocates.com,erin@andersonadvocates.com
Michael Finnegan	on behalf of Creditor Certain Sexual Abuse Claimants mike@andersonadvocates.com therese@andersonadvocates.com,erin@andersonadvocates.com
Michael Finnegan	on behalf of Notice of Appearance Creditor Jeff Anderson & Associates mike@andersonadvocates.com therese@andersonadvocates.com,erin@andersonadvocates.com
Michael Watson	on behalf of Creditor Certain Sexual Abuse Claimants mwatson@thematthewslawfirm.com
Michael Watson	on behalf of Notice of Appearance Creditor Sexual Abuse Survivor/Creditor mwatson@thematthewslawfirm.com
Michael A. Weishaar	on behalf of Notice of Appearance Creditor Jeff Anderson & Associates rbg_gmf@hotmail.com r48948@notify.bestcase.com,gmwecfalternate@gmail.com,bankruptcy@gmlaw.com
Michael J Grygiel	on behalf of Interested Party Gannett Co. Inc. grygielm@gtlaw.com, alblitdock@gtlaw.com,alblitsupport@gtlaw.com,caponev@gtlaw.com
Miranda Turner	on behalf of Interested Party Continental Insurance Company mturner@crowell.com
Mitchell Garabedian	on behalf of Creditor VJR 41 mgarabedian@garabedianlaw.com
Mitchell Garabedian	on behalf of Creditor SHC-MG-2 Doe mgarabedian@garabedianlaw.com
Mitchell Garabedian	on behalf of Creditor DG 278 mgarabedian@garabedianlaw.com
Mitchell Garabedian	on behalf of Creditor SM 247 mgarabedian@garabedianlaw.com
Mitchell Garabedian	on behalf of Creditor BB 44 mgarabedian@garabedianlaw.com
Mitchell Garabedian	

	on behalf of Creditor Victor Rivera mgarabedian@garabedianlaw.com
Mitchell Garabedian	on behalf of Creditor Carol Dupre mgarabedian@garabedianlaw.com
Mitchell Garabedian	on behalf of Creditor MS 275 mgarabedian@garabedianlaw.com
Mohammad Tehrani	on behalf of Interested Party London Market Insurers mtehrani@duanemorris.com
Nathan W. Reinhardt	on behalf of Interested Party London Market Insurers nreinhardt@duanemorris.com
Nathaniel Foote	on behalf of Creditor Thomas David Adams nate@vca.law
Nathaniel Foote	on behalf of Attorney Nathaniel Lucas Foote nate@vca.law
Paul L. Leclair	on behalf of Notice of Appearance Creditor St. Bernard's School of Theology and Ministry pleclair@adamsleclair.law arichardson@adamsleclair.law
Peter Garthwaite	on behalf of Interested Party London Market Insurers peter.garthwaite@clydeco.com
Peter Garthwaite	on behalf of Defendant Tenecom Limited peter.garthwaite@clydeco.com
Peter P. McNamara	on behalf of Interested Party Interstate Fire and Casualty Company peter.mcnamara@rivkin.com
Peter P. McNamara	on behalf of Interested Party National Surety Corporation peter.mcnamara@rivkin.com
Peter P. McNamara	on behalf of Defendant Interstate Fire & Casualty Company peter.mcnamara@rivkin.com
Peter P. McNamara	on behalf of Defendant National Surety Corporation peter.mcnamara@rivkin.com
Renee E. Franchi	on behalf of Creditor Thomas David Adams renee@vca.law
Robert P. Arnold	on behalf of Defendant Colonial Penn Insurance Company rarnold@walkerwilcox.com MZaiko@walkerwilcox.com
Robert P. Arnold	on behalf of Notice of Appearance Creditor Colonial Penn Insurance Company rarnold@walkerwilcox.com MZaiko@walkerwilcox.com
Russell Webb Roten	on behalf of Defendant Interstate Fire & Casualty Company RWRoten@duanemorris.com
Russell Webb Roten	on behalf of Interested Party Interstate Fire and Casualty Company RWRoten@duanemorris.com
Russell Webb Roten	on behalf of Defendant Certain London Market Companies RWRoten@duanemorris.com
Russell Webb Roten	on behalf of Interested Party London Market Insurers RWRoten@duanemorris.com
Russell Webb Roten	on behalf of Interested Party Certain Underwriters at Lloyd's London RWRoten@duanemorris.com
Sam A Elbadawi	on behalf of Interested Party First State Insurance Company selbadawi@sugarmanlaw.com
Samrah Mahmoud	on behalf of Interested Party Interstate Fire and Casualty Company samrah.mahmoud@troutman.com
Sara C. Temes	on behalf of Debtor The Diocese of Rochester stemes@bsk.com CourtMail@bsk.com;kdoner@bsk.com
Scott Michael Duquin	on behalf of Creditor John Doe 3 sduquin@hermanlaw.com smdlaw27@gmail.com
Scott Michael Duquin	on behalf of Creditor M. B. sduquin@hermanlaw.com smdlaw27@gmail.com
Scott Michael Duquin	



	on behalf of Creditor Michael Crespo sduquin@hermanlaw.com smdlaw27@gmail.com
Scott Michael Duquin	on behalf of Creditor Daniel Regan sduquin@hermanlaw.com smdlaw27@gmail.com
Scott Michael Duquin	on behalf of Creditor D. S. sduquin@hermanlaw.com smdlaw27@gmail.com
Scott Michael Duquin	on behalf of Creditor D S sduquin@hermanlaw.com smdlaw27@gmail.com
Scott Michael Duquin	on behalf of Creditor B. M. sduquin@hermanlaw.com smdlaw27@gmail.com
Scott Michael Duquin	on behalf of Creditor M. P. sduquin@hermanlaw.com smdlaw27@gmail.com
Scott Michael Duquin	on behalf of Creditor Certain Sexual Abuse Claimants sduquin@hoganwillig.com smdlaw27@gmail.com
Scott Michael Duquin	on behalf of Creditor J. O. sduquin@hermanlaw.com smdlaw27@gmail.com
Scott Michael Duquin	on behalf of Creditor T. G. sduquin@hermanlaw.com smdlaw27@gmail.com
Scott Michael Duquin	on behalf of Creditor Daniel Crespo sduquin@hermanlaw.com smdlaw27@gmail.com
Scott Michael Duquin	on behalf of Creditor J. F. sduquin@hermanlaw.com smdlaw27@gmail.com
Shannon Anne Scott	on behalf of U.S. Trustee William K. Harrington shannon.scott2@usdoj.gov
Shirley S. Cho	on behalf of Creditor Committee Official Committee of Unsecured Creditors scho@pszjlw.com
Siobhain Patricia Minarovich	on behalf of Defendant Interstate Fire & Casualty Company siobhain.minarovich@rivkin.com
Siobhain Patricia Minarovich	on behalf of Interested Party National Surety Corporation siobhain.minarovich@rivkin.com
Siobhain Patricia Minarovich	on behalf of Interested Party Interstate Fire and Casualty Company siobhain.minarovich@rivkin.com
Siobhain Patricia Minarovich	on behalf of Defendant National Surety Corporation siobhain.minarovich@rivkin.com
Sommer L. Ross	on behalf of Interested Party London Market Insurers sloss@duanemorris.com
Stephen Boyd	on behalf of Notice of Appearance Creditor 1 - Doe AB sboyd@steveboyd.com rmatuzic@steveboyd.com
Stephen Boyd	on behalf of Creditor Certain Sexual Abuse Claimants sboyd@steveboyd.com rmatuzic@steveboyd.com
Stephen A. Donato	on behalf of Plaintiff The Diocese of Rochester sdonato@bsk.com ayerst@bsk.com;kdoner@bsk.com;CourtMail@bsk.com
Stephen A. Donato	on behalf of Debtor The Diocese of Rochester sdonato@bsk.com ayerst@bsk.com;kdoner@bsk.com;CourtMail@bsk.com
Stephenie Lannigan Bross	on behalf of Creditor claimant 496 sbross@sssfirm.com
Stephenie Lannigan Bross	on behalf of Creditor claimant 434 sbross@sssfirm.com
Stephenie Lannigan Bross	on behalf of Creditor claimant 557 sbross@sssfirm.com
Stephenie Lannigan Bross	on behalf of Creditor claimant 480 sbross@sssfirm.com
Stephenie Lannigan Bross	on behalf of Creditor claimant 527 sbross@sssfirm.com
Stephenie Lannigan Bross	on behalf of Creditor claimant 468 sbross@sssfirm.com

District/off: 0209-2  
Date Rcvd: Oct 23, 2023

User: admin  
Form ID: pdforder

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Total Noticed: 3

Stephenie Lannigan Bross	on behalf of Creditor claimant 481 sbross@sssfirm.com
Stephenie Lannigan Bross	on behalf of Creditor claimant 485 sbross@sssfirm.com
Stephenie Lannigan Bross	on behalf of Creditor claimant 274 sbross@sssfirm.com
Steve Phillips	on behalf of Creditor LCVAWCR-DOE sphillips@p2law.com
Steve Phillips	on behalf of Creditor LCVAWCR DOE sphillips@p2law.com
Steven D. Allison	on behalf of Interested Party Interstate Fire and Casualty Company steven.allison@troutman.com tracey.cantu@troutman.com
Stuart S. Mermelstein	on behalf of Creditor Claimants smermelstein@hermanlaw.com
Timothy Patrick Lyster	on behalf of Interested Party Ad Hoc Parish Committee tlyster@woodsoviatt.com mjohnstone@woodsoviatt.com
Timothy Patrick Lyster	on behalf of Notice of Appearance Creditor Ad Hoc Parish Committee tlyster@woodsoviatt.com mjohnstone@woodsoviatt.com
Timothy W. Burns	on behalf of Creditor Committee Official Committee of Unsecured Creditors tburns@bbblawllp.com kdempski@burnsbair.com
Timothy W. Burns	on behalf of Special Counsel Burns Bowen Bair LLP tburns@bbblawllp.com kdempski@burnsbair.com
Timothy W. Burns	on behalf of Notice of Appearance Creditor Official Committee of Unsecured Creditors tburns@burnsbair.com kdempski@burnsbair.com
Todd C. Jacobs	on behalf of Defendant National Surety Corporation tjacobs@phrd.com ssnead@phrd.com
Todd C. Jacobs	on behalf of Defendant Interstate Fire & Casualty Company tjacobs@phrd.com ssnead@phrd.com
Todd C. Jacobs	on behalf of Interested Party National Surety Corporation tjacobs@phrd.com ssnead@phrd.com
Todd C. Jacobs	on behalf of Interested Party Interstate Fire and Casualty Company tjacobs@phrd.com ssnead@phrd.com
Victoria Phillips	on behalf of Creditor LCVAWCR-DOE vphillips@p2law.com
William Henry Gordon	on behalf of Creditor Carol Dupre wgordon@garabedianlaw.com
TOTAL: 233	

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

In re:

THE DIOCESE OF ROCHESTER,

Debtor.<sup>1</sup>

) Case No. 19-20905 (PRW)

) Chapter 11

**STIPULATION AND ORDER REGARDING SCHEDULING OF VARIOUS MATTERS**

It is hereby stipulated and agreed, by and through the undersigned counsel of record for (a) The Diocese of Rochester (the “**Diocese**” or the “**Debtor**”), (b) the Official Committee of Unsecured Creditors of the Diocese of Rochester (the “**Committee**”), and (c) The Continental Insurance Company (“**CNA**” and, together with the Diocese and the Committee, the “**Parties**”), as follows:

**RECITALS**

A. On June 23, 2022, the Diocese filed its *Motion to Approve Proposed Insurance Settlement to Fund Survivor Compensation Trust* (the “**Insurance Settlement Motion**”) [D.I. 1538].

B. On June 30, 2022, the Committee filed its *Official Committee of Unsecured Creditors’ Objection to Debtor’s Motion to Approve Proposed Insurance Settlements to Fund Survivor Compensation Trust* (the “**Committee Insurance Settlement Objection**”) [D.I. 1555].

C. On July 22, 2022, the Diocese filed objections to certain claims asserted by Sexual Abuse Claimants (collectively, the “**Diocese Claim Objections**”) [D.I. 1576–1641, 1643 and 1644].

D. On November 3, 2022, the Debtor filed its *Motion for Entry of an Order (I)*

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<sup>1</sup> The Debtor in this chapter 11 case is The Diocese of Rochester, the last four digits of its federal tax identification number are 5765, and its mailing address is 1150 Buffalo Road, Rochester, NY 14624.

*Approving the RSA, (II) Authorizing the Diocese to Enter Into and Perform Under the RSA; (III) Approving the Committee Settlement, and (IV) Granting Related Relief (the “**RSA Motion**”)* [D.I. 1790].

E. On March 23, 2023, CNA filed objections to certain claims asserted by Sexual Abuse Claimants (collectively, the “**Initial CNA Claims Objections**”) [D.I. 2003-40]. In addition, CNA has advised the Debtor and the Committee that it may file additional objections to certain claims asserted by Sexual Abuse Claimants (the “**CNA Additional Claims Objections**” and, together with the CNA Claims Objections, the “**CNA Claims Objections**”).

F. On April 11, 2023, the Committee filed its *Motion of the Official Committee of Unsecured Creditors for Entry of an Order (I) Dismissing Claim Objections Filed by Continental Insurance Company for (A) Lack of Standing or (B) Lack of Jurisdiction or, in the Alternative, (II) Staying the Claim Objections* (the “**Committee CNA Claim Standing Motion**”) [D.I. 2063].

G. On May 1, 2023, CNA filed its *Continental’s Opposition to Motion of the Official Committee of Unsecured Creditors for Entry of an Order (I) Dismissing Claim Objections Filed by Continental Insurance Company for (A) Lack of Standing or (B) Lack of Jurisdiction or, in the Alternative, (II) Staying the Claim Objections* (the “**CNA Claim Standing Objection**”) [D.I. 2110].

H. On August 22, 2023, the Committee filed its *Motion of the Official Committee of Unsecured Creditors for an Order Granting Leave, Standing and Authority to Prosecute Certain Causes of Action on Behalf of the Debtor and Its Estate* (the “**Committee Derivative Standing Motion**”) [D.I. 2203].

I. On October 2, 2023, CNA filed *CNA’s Opposition to Motion for an Order Granting Leave, Standing and Authority to Prosecute Certain Causes of Action on Behalf of the*

*Debtor and Its Estate* (the “**CNA Derivative Standing Opposition**”) [D.I. 2249].

J. On September 13, 2023, the Diocese and the Committee filed the *First Amended Joint Chapter 11 Plan of Reorganization for the Diocese of Rochester* Dated September 13, 2023 (the “**Joint Plan**”) [D.I. 2217] and the Diocese filed the Disclosure Statement related thereto (the “**Diocese Disclosure Statement**”) [D.I. 2218].

K. Continental filed the *Continental Insurance Company’s First Amended Chapter 11 Plan of Reorganization for the Diocese of Rochester* (the “**CNA Plan**”) on October 3, 2023 [D.I. 2254] and the Disclosure Statement related thereto (the “**CNA Disclosure Statement**”) on October 2, 2023 [D.I. 2247].

L. On September 19, 2023, the Court entered its *Case Management Order Directing Parties to Meet and Confer to Formulate Joint Litigation Plan* (the “**Case Management Order**”) [D.I. 2226].

M. CNA has advised the Debtor and the Committee that it intends to file an adversary proceeding complaint (the “**Administrative Treatment Complaint**”) and/or an application for administrative expense treatment for a claim (the “**Administrative Treatment Application**”) based on the Diocese’s alleged breach of its proposed insurance settlement agreement with CNA [D.I. 190-4].

N. The Parties have agreed to a schedule for the litigation of matters set forth above, and the deadlines for discovery that the parties may conduct with respect to certain of the matters set forth above, as follows:

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED,** subject to approval of the Court, as follows:

1. The Committee Derivative Standing Motion and CNA Derivative Standing

Opposition shall each be withdrawn without prejudice.

2. By no later than **October 30, 2023**, the Committee may submit a motion asking the Court to deny the Insurance Settlement Motion as moot. By no later than **November 22, 2023**, CNA may submit a brief opposing the Committee's motion. A hearing to consider whether the Insurance Settlement Motion should be denied as moot shall be held on **December 8, 2023 at 11:00 a.m.** prevailing Eastern time.

3. If the Court determines that the Insurance Settlement Motion should not be denied as moot, the hearing to consider the Insurance Settlement Motion shall be adjourned to the same date as the confirmation hearing. Notwithstanding any decision concerning whether the Insurance Settlement Motion should be denied as moot, all Parties reserve all rights concerning the Insurance Settlement Motion and the settlement agreement and related documentation.

4. CNA shall file the Administrative Treatment Complaint and/or the Administrative Treatment Application, if at all, by not later than **November 7, 2023**. The Debtor and the Committee may each submit separate consolidated motions to dismiss the Administrative Treatment Complaint and to disallow the Administrative Treatment Application as a matter of law (the "**Administrative Treatment Objection**") by not later than **December 22, 2023**. CNA may submit an opposition to the Administrative Treatment Objection by not later than **January 16, 2024**. A hearing to consider whether the Administrative Treatment Objection should be granted or denied shall be held on **January 30, 2024 at 11:00 a.m.** prevailing Eastern time.

5. Unless the Court determines that the Administrative Treatment Objections should be sustained in their entirety, the hearing to consider the Administrative Treatment Complaint and the Administrative Treatment Application shall be adjourned to the same date as the confirmation hearing. Nothing in this Order shall preclude any Party from filing a motion to estimate the amount, if any, of CNA's Administrative Treatment Complaint and/or the Administrative

Treatment Application (the “**Motion to Estimate**”). If a Motion to Estimate is filed no later than **January 30, 2024**, it shall be heard at the same date as the confirmation hearing. The Parties may seek discovery on issues concerning any anticipated Motion to Estimate beginning on the date specified in ¶12(a) below; provided, however, that nothing herein shall preclude any party from seeking supplemental discovery concerning any Motion to Estimate after such motion is filed.

6. The Diocese shall file a motion (the “**Diocese DS Motion**”) seeking approval of the Diocese Disclosure Statement and procedures for voting on the Joint Plan no later than **October 25, 2023**.

7. CNA shall file a motion (the “**CNA DS Motion**” and, with the Diocese DS Motion, the “**DS Motions**”) seeking approval of the CNA Disclosure Statement and procedures for voting on the CNA Plan no later than **October 25, 2023**.

8. A hearing on the DS Motions shall be held on **December 19, 2023 at 11:00 a.m.** prevailing Eastern time. Prior to the hearing, the Parties shall meet and confer to attempt to streamline the voting process. The deadline for any party to object to the DS Motions shall be **December 5, 2023**. The deadline for Parties to file responses to any objections to the DS Motions shall be **December 12, 2023**.

9. The following motions (collectively, the “**Adjourned Matters**”) shall be adjourned without date, subject to both the other provisions of this Order and any Party’s right to seek consideration of any such motion on a date that is no earlier than **15 days** after completion of the hearings on the approval of the Joint Plan and the CNA Plan. After the expiration of the **15-day** period, the Parties may then request the Court to set a status conference to address any or all of the Adjourned Matters:

- a. the CNA Claims Objections;
- b. the Committee CNA Claims Standing Motion;

- c. the RSA Motion; and
- d. the Diocese Claim objections.

10. The Parties may amend their respective plans to provide treatment for any of the Adjourned Matters, including dismissal thereof upon confirmation of such plan.

11. The Court shall schedule a hearing to consider confirmation of a plan or plans at the hearing on the DS Motions. Such hearing shall be on no less than **95 days'** notice after completion of the hearing on the DS Motions.

12. The parties shall apply the following discovery process for the hearing on (a) confirmation of the Parties' respective plans, (b) the Insurance Settlement Motion (if it has not previously been denied as moot), (c) the Administrative Treatment Complaint, the Administrative Treatment Application (if the Administrative Treatment Objection has not previously been sustained to an extent that makes litigation of CNA's request for an administrative claim unnecessary), and (d) the Motion to Estimate:

- a. Initial Disclosures. Unless otherwise agreed to by the Parties, the Parties shall make their initial disclosures pursuant to FED. R. CIV. P. 26(a)(1) by the date that is **15 days** before the scheduled hearing on the DS Motions.
- b. Discovery.
  - i. Initiation of Fact Discovery. The Parties may initiate fact discovery by the date that is **15 days** before the scheduled hearing on the DS Motions.
  - ii. Fact Discovery Cut-Off. All fact discovery in this matter shall be initiated so that it will be completed on or before **60 days** prior to the confirmation hearing.
  - iii. Disclosure of Expert Testimony.



1. Expert Reports. For the party who has the initial burden of proof on the subject matter, the initial FED. R. CIV. P. 26(a)(2) disclosure of expert testimony is due on or before **53 days** prior to the confirmation hearing. Any rebuttal reports shall be due **39 days** prior to the confirmation hearing. Reply expert reports from the party with the initial burden of proof are due on or before **25 days** prior to the confirmation hearing, and shall be limited to those issues (if any) raised for the first time in the opposing party's rebuttal report(s). No other expert reports will be permitted without either the consent of all parties or leave of the Court. Along with the submissions of the expert reports, the parties shall advise of the dates and times of their experts' availability for deposition.
2. All expert depositions shall be completed **14 days** prior to the confirmation hearing.
3. Objections to Expert Testimony. To the extent any objection to expert testimony is made pursuant to the principles announced in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), as incorporated in FED. R. EVID. 702, it shall be made by motion no later than **3 days** prior to the confirmation hearing, unless otherwise ordered by the Court. Such motions will be considered at the confirmation hearing.

13. Parties may file briefs in support of or opposition to confirmation of the CNA Plan

or the Joint Plan no later than **14 days** prior to the confirmation hearing. Reply briefs may be filed no later than **7 days** prior to the confirmation hearing.

14. If the outcome of voting on either plan would be impacted by allowance or disallowance of the Claims Objections, then the Court shall adjourn the confirmation hearing for a period of no less than **60 days** to allow parties to litigate the Claims Objections. The parties shall meet and confer regarding a separate scheduling order with respect to litigation of the Claims Objections. If the parties cannot agree, the Court will issue a scheduling order for such litigation. Any scheduling order regarding the Claims Objections shall provide for a hearing on the Committee CNA Claims Standing Motion.

15. Nothing in this Order shall modify, waive, or impact the Parties' rights concerning any of the Adjourned Matters before this Court or any issues concerning approval of the Diocese Disclosure Statement or the CNA Disclosure Statement or confirmation of either the Joint Plan or the CNA Plan, including the rights of CNA to object to confirmation of the Joint Plan on the basis that certain determinations, including, but not limited to, any determination as to the propriety of the Stipulated Judgments referred to in the Joint Plan, including whether Stipulated Judgments can be approved pursuant to Bankruptcy Rule 9019, must be decided in the "Insurance Adversary Proceeding" (Adv. Proc. No. 2-19-02021-PRW) and not as part of a contested matter involving plan confirmation or a motion under Rule 9019.

16. Nothing in this Order (a) precludes the Parties from jointly requesting modification of the dates set forth in this Order or any other provision of this Order or (b) precludes any single Party from requesting, for good cause shown, an extension of the dates set forth in this Order or modification of any other provision of this Order. If Debtor, the Committee, or any other party-in-interest challenges, through a separate motion or application, CNA's standing to file a disclosure statement or plan, seek confirmation of the CNA Plan, or object to the Diocese Disclosure

Statement or the Joint Plan (collectively, “CNA Standing”), the Court shall adjust the schedule set forth in this Order to the extent necessary and appropriate. For the avoidance of doubt, any objection or opposition to CNA Standing may be raised in any objection, response or pleading regarding approval of a disclosure statement or confirmation of a plan without effect on the schedule set forth in this Order.

17. The Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

BOND, SCHOENECK & KING, PLLC

By: /s/ Stephen A. Donato  
Stephen A. Donato  
Charles J. Sullivan  
Grayson T. Walter  
One Lincoln Center  
Syracuse, NY 13202-1355  
Telephone: (315) 218-8000  
Fax: (315) 218-8100  
Emails: sdonato@bsk.com  
csullivan@bsk.com  
gwalter@bsk.com

*Attorneys for The Diocese of Rochester*

PACHULSKI STANG ZIEHL & JONES LLP

By: /s/ Ilan D. Scharf  
James I. Stang (admitted *pro hac vice*)  
Ilan D. Scharf  
Iain A.W. Nasatir  
Brittany M. Michael  
780 Third Avenue, 36<sup>th</sup> Floor  
New York, NY 10017-2024  
Telephone: (212) 561-7700  
Facsimile: (212) 561-7777  
Email: jstang@pszjlaw.com  
Email: [ischarf@pszjlaw.com](mailto:ischarf@pszjlaw.com)  
Email: inasatir@pszjlaw.com  
Email: bmichael@pszjlaw.com

*Counsel for the Official Committee  
of Unsecured Creditors of The Diocese of Rochester*

BURNS BAIR LLP  
Timothy W. Burns  
Jesse J. Bair  
10 E. Doty St., Suite 600  
Madison, Wisconsin 53703  
Telephone: 608-286-2808  
Email: tburns@burnsbair.com  
jbair@burnsbair.com

*Special Insurance Counsel to the Official  
Committee of Unsecured Creditors of The Diocese  
of Rochester*

BARCLAY DAMON LLP

By: /s/ Mark D. Plevin  
Jeffrey A. Dove  
Barclay Damon Tower  
125 East Jefferson Street  
Syracuse, New York 13202  
Telephone: (315) 413-7112  
Facsimile: (315) 703-7346  
[jdove@barclaydamon.com](mailto:jdove@barclaydamon.com)

Mark D. Plevin  
CROWELL & MORING LLP  
Three Embarcadero Center, 26th Floor  
San Francisco, California 94111  
Telephone: (415) 986-2800  
[mplevin@crowell.com](mailto:mplevin@crowell.com)

David Christian  
DAVID CHRISTIAN ATTORNEYS LLC  
105 West Madison Street, Suite 1400  
Chicago, Illinois 60602  
Telephone: (312) 282-5282  
[dchristian@dca.law](mailto:dchristian@dca.law)

Miranda H. Turner  
CROWELL & MORING LLP  
1001 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
Telephone: (202) 624-2500  
[mturner@crowell.com](mailto:mturner@crowell.com)

*Attorneys for The Continental Insurance Company,  
successor by merger to Commercial Insurance  
Company of Newark, New Jersey and Firemen's  
Insurance Company of Newark, New Jersey*

SO ORDERED:

Dated: October 23, 2023  
Rochester, New York

\_\_\_\_\_/s/\_\_\_\_\_  
THE HONORABLE PAUL R. WARREN  
U.S. BANKRUPTCY JUDGE